

AMENDED IN ASSEMBLY MARCH 16, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1943

Introduced by Assembly Member Fletcher

February 17, 2010

An act to *amend Section 49076 of the Education Code, and to add Section ~~16015~~ 16501.9 to the Welfare and Institutions Code, relating to foster children.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1943, as amended, Fletcher. Foster children: access to information.

Existing law declares the duty of the state to care for and protect the children that it places into foster care. Under existing law, the State Department of Social Services has various powers and duties relating to ensuring that the needs of foster children are met.

Existing law requires the State Department of Social Services to implement a single statewide Child Welfare Services Case Management System (CWS/CMS) to administer and evaluate the state's child welfare services and foster care programs.

This bill would require the department to provide all county welfare departments within the state access to information relating to all foster youth in the CWS/CMS system.

Existing law prohibits a school district, as defined, from permitting access to pupil records to any person without parental consent or without a judicial order, except under certain circumstances, including access by a county placing agency, as defined, for the purpose of fulfilling the requirements of a certain health and education summary or fulfilling educational case management responsibilities required by

the juvenile court or by law and to assist with the school transfer or placement of a pupil. Existing law permits school districts, county offices of education, and county placing agencies to develop cooperative agreements to facilitate the access to, and exchange of, these records.

This bill would provide that school districts may permit access to the above pupil records even if the county placing agency is outside the county in which the school district may be found. This bill would, to the extent permitted by federal law, permit all county welfare departments to share specified information relating to foster youth with county offices of education and other local educational agencies, including school districts and would permit the county welfare departments to share this information even if the county office of education or local educational agency is outside the county in which the county welfare department may be found.

~~Existing law declares the intent of the Legislature to preserve and strengthen a child's family ties whenever possible, removing the child from the custody of his or her parents only when necessary for his or her welfare or for the safety and protection of the public. Existing law also identifies the case plan as the foundation and central unifying tool in child welfare services. Under existing law, a foster child's case plan is required to include, among other components, a summary of the child's health and education information or records.~~

~~This bill would require the State Department of Social Services to provide each county welfare department with a weekly abstract of designated data with respect to specified children under the geographic jurisdiction of the county. The bill would require a county welfare department to share the information provided immediately with the county office of education, and upon request, to other agencies and service providers within the county. By imposing additional duties on counties, the bill would create a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 49076 of the Education Code, as amended*
2 *by Section 3 of Chapter 1 of the Fifth Extraordinary Session of*
3 *the Statutes of 2010, is amended to read:*

4 49076. A school district is not authorized to permit access to
5 pupil records to any person without written parental consent or
6 under judicial order except that:

7 (a) Access to those particular records relevant to the legitimate
8 educational interests of the requester shall be permitted to the
9 following:

10 (1) School officials and employees of the district, members of
11 a school attendance review board appointed pursuant to Section
12 48321, and any volunteer aide, 18 years of age or older, who has
13 been investigated, selected, and trained by a school attendance
14 review board for the purpose of providing followup services to
15 pupils referred to the school attendance review board, provided
16 that the person has a legitimate educational interest to inspect a
17 record.

18 (2) Officials and employees of other public schools or school
19 systems, including local, county, or state correctional facilities
20 where educational programs leading to high school graduation are
21 provided or where the pupil intends to or is directed to enroll,
22 subject to the rights of parents as provided in Section 49068.

23 (3) Authorized representatives of the Comptroller General of
24 the United States, the Secretary of Education, and administrative
25 head of an education agency, state education officials, or their
26 respective designees, or the United States Office of Civil Rights,
27 where the information is necessary to audit or evaluate a state or
28 federally supported education program or pursuant to a federal or
29 state law, provided that except when collection of personally
30 identifiable information is specifically authorized by federal law,
31 any data collected by those officials shall be protected in a manner
32 which will not permit the personal identification of pupils or their
33 parents by other than those officials, and any personally identifiable
34 data shall be destroyed when no longer needed for the audit,
35 evaluation, and enforcement of federal legal requirements.

36 (4) Other state and local officials to the extent that information
37 is specifically required to be reported pursuant to state law adopted
38 prior to November 19, 1974.

1 (5) Parents of a pupil 18 years of age or older who is a dependent
2 as defined in Section 152 of the Internal Revenue Code of 1954.

3 (6) A pupil 16 years of age or older or having completed the
4 10th grade who requests access.

5 (7) Any district attorney who is participating in or conducting
6 a truancy mediation program pursuant to Section 48263.5, or
7 Section 601.3 of the Welfare and Institutions Code, or participating
8 in the presentation of evidence in a truancy petition pursuant to
9 Section 681 of the Welfare and Institutions Code.

10 (8) A prosecuting agency for consideration against a parent or
11 guardian for failure to comply with the Compulsory Education
12 Law (Chapter 2 (commencing with Section 48200) of Part 27) or
13 with Compulsory Continuation Education (Chapter 3 (commencing
14 with Section 48400) of Part 27).

15 (9) Any probation officer or district attorney for the purposes
16 of conducting a criminal investigation or an investigation in regards
17 to declaring a person a ward of the court or involving a violation
18 of a condition of probation.

19 (10) Any judge or probation officer for the purpose of
20 conducting a truancy mediation program for a pupil, or for purposes
21 of presenting evidence in a truancy petition pursuant to Section
22 681 of the Welfare and Institutions Code. The judge or probation
23 officer shall certify in writing to the school district that the
24 information will be used only for truancy purposes. A school
25 district releasing pupil information to a judge or probation officer
26 pursuant to this paragraph shall inform, or provide written
27 notification to, the parent or guardian of the pupil within 24 hours
28 of the release of the information.

29 (11) Any county placing agency for the purpose of fulfilling
30 the requirements of the health and education summary required
31 pursuant to Section 16010 of the Welfare and Institutions Code or
32 for the purpose of fulfilling educational case management
33 responsibilities required by the juvenile court or by law and to
34 assist with the school transfer or enrollment of a pupil. *For the*
35 *purposes of this paragraph, school districts are permitted to*
36 *provide access to county placing agencies even if the county*
37 *placing agency is outside the county in which the school district*
38 *may be found.* School districts, county offices of education, and
39 county placing agencies may develop cooperative agreements to
40 facilitate confidential access to and exchange of the pupil

1 information by electronic mail, facsimile, electronic format, or
2 other secure means.

3 (b) School districts may release information from pupil records
4 to the following:

5 (1) Appropriate persons in connection with an emergency if the
6 knowledge of the information is necessary to protect the health or
7 safety of a pupil or other persons.

8 (2) Agencies or organizations in connection with the application
9 of a pupil for, or receipt of, financial aid. However, information
10 permitting the personal identification of a pupil or his or her parents
11 may be disclosed only as may be necessary for purposes as to
12 determine the eligibility of the pupil for financial aid, to determine
13 the amount of the financial aid, to determine the conditions which
14 will be imposed regarding the financial aid, or to enforce the terms
15 or conditions of the financial aid.

16 (3) The county elections official, for the purpose of identifying
17 pupils eligible to register to vote, and for conducting programs to
18 offer pupils an opportunity to register to vote. The information,
19 however, shall not be used for any other purpose or given or
20 transferred to any other person or agency.

21 (4) Accrediting associations in order to carry out their
22 accrediting functions.

23 (5) Organizations conducting studies for, or on behalf of,
24 educational agencies or institutions for the purpose of developing,
25 validating, or administering predictive tests, administering student
26 aid programs, and improving instruction, if the studies are
27 conducted in a manner that will not permit the personal
28 identification of pupils or their parents by persons other than
29 representatives of the organizations and the information will be
30 destroyed when no longer needed for the purpose for which it is
31 obtained.

32 (6) Officials and employees of private schools or school systems
33 where the pupil is enrolled or intends to enroll, subject to the rights
34 of parents as provided in Section 49068. This information shall be
35 in addition to the pupil's permanent record transferred pursuant
36 to Section 49068.

37 A person, persons, agency, or organization permitted access to
38 pupil records pursuant to this section may not permit access to any
39 information obtained from those records by any other person,
40 persons, agency, or organization, except for allowable exceptions

1 contained within the Family Educational Rights and Privacy Act
2 of 2001 (20 U.S.C. Sec. 1232g) and state law, without the written
3 consent of the pupil's parent. However, this paragraph does not
4 require prior parental consent when information obtained pursuant
5 to this section is shared with other persons within the educational
6 institution, agency, or organization obtaining access, so long as
7 those persons have a legitimate interest in the information.

8 (c) Notwithstanding any other provision of law, any school
9 district, including any county office of education or superintendent
10 of schools, may participate in an interagency data information
11 system that permits access to a computerized database system
12 within and between governmental agencies or districts as to
13 information or records which are nonprivileged, and where release
14 is authorized as to the requesting agency under state or federal law
15 or regulation, if each of the following requirements are met:

16 (1) Each agency and school district shall develop security
17 procedures or devices by which unauthorized personnel cannot
18 access data contained in the system.

19 (2) Each agency and school district shall develop procedures
20 or devices to secure privileged or confidential data from
21 unauthorized disclosure.

22 (3) Each school district shall comply with the access log
23 requirements of Section 49064.

24 (4) The right of access granted shall not include the right to add,
25 delete, or alter data without the written permission of the agency
26 holding the data.

27 (5) An agency or school district may not make public or
28 otherwise release information on an individual contained in the
29 database where the information is protected from disclosure or
30 release as to the requesting agency by state or federal law or
31 regulation.

32 *SEC. 2. Section 16501.9 is added to the Welfare and Institutions*
33 *Code, to read:*

34 *16501.9. (a) The department shall provide all county welfare*
35 *departments within the state access to information relating to all*
36 *foster youth in the Child Welfare Services Case Management*
37 *System (CWS/CMS) established pursuant to Section 16501.5.*

38 *(b) To the extent permitted by federal law, all county welfare*
39 *departments may share the following information with county*
40 *offices of education and other local educational agencies, including*

1 school districts, and even if the county office of education or other
2 local educational agency is outside the county in which the county
3 welfare department may be found, with respect to all children who
4 are under the jurisdiction of the county welfare department,
5 including wards and dependent children of the juvenile court, and
6 children in foster and kinship care:

7 (1) Demographic information.

8 (2) Parent or guardian information.

9 (3) Social worker information.

10 (4) Placement information.

11 (c) All county offices of education and other local educational
12 agencies, including school districts, may provide county welfare
13 departments access to pupil records pursuant to paragraph (11)
14 of subdivision (a) of Section 49076 of the Education Code.

15 (d) It is the intent of the Legislature to permit all county welfare
16 departments, county offices of education, and other local
17 educational agencies, including school districts, to share
18 information across county lines in order to further facilitate
19 compliance with Assembly Bill 490 of the 2003-04 Regular Session,
20 particularly with respect to foster youth that are under the
21 jurisdiction of one county welfare department but that are in
22 placements and attend school in a county under the geographic
23 jurisdiction of a second county welfare department.

24 (e) It is the intent of the Legislature to encourage all county
25 offices of education to establish electronic databases for the
26 purpose of maintaining pertinent student information that may be
27 accessed pursuant to subdivision (c) of this section, or paragraph
28 (11) of subdivision (a) of Section 49076 of the Education Code.

29 ~~SECTION 1. Section 16015 is added to the Welfare and~~
30 ~~Institutions Code, to read:~~

31 ~~16015. (a) The department shall provide each county welfare~~
32 ~~department with a weekly abstract of data, consistent with~~
33 ~~subdivision (c), with respect to children who are under the~~
34 ~~geographic jurisdiction of the county, including wards and~~
35 ~~dependent children of the juvenile court, and children in foster and~~
36 ~~kinship care.~~

37 ~~(b) The county welfare department shall share the information~~
38 ~~provided by the department under subdivision (a) with the~~
39 ~~corresponding county office of education. In addition, the county~~
40 ~~welfare department shall provide access to the information to~~

1 agencies and service providers within the county, upon request of
2 the agency or service provider.

3 (e) Information provided by the department under this section
4 shall include, but not be limited to, the following categories:

5 (1) Demographic information.

6 (2) Alternative name information.

7 (3) Immunization record information.

8 (4) Residential placement history.

9 (5) Educational placement history.

10 (6) Parent or guardian information.

11 (7) Case history information.

12 SEC. 2. ~~If the Commission on State Mandates determines that~~
13 ~~this act contains costs mandated by the state, reimbursement to~~
14 ~~local agencies and school districts for those costs shall be made~~
15 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
16 ~~4 of Title 2 of the Government Code.~~